

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: HASTINGS
 SERIAL NO.: 09/994,575
 FILED: NOVEMBER 27, 2001
 TITLE: MEDIAN FILTER FOR LIQUID
 CHROMATOGRAPHY-MASS
 SPECTROMETRY DATA

EXAMINER: KALIVODA, C.M.
 ART UNIT: 2881
 CONF. NO.: 7303

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION

Sir:

An Office Action was mailed in the above-captioned application on October 3, 2003. In such Office Action claims 1-5, 7-16, and 18-22 were pending. Independent Claims 1 and 12 were rejected under 35 U.S.C. § 102(e)(1). Dependent Claims 1 and 12 were rejected under 35 U.S.C. § 103(a). This Request for Reconsideration is submitted in response to such Office Action.

The Rejection under 35 U.S.C. § 102(e)(1)

Independent claims 1 and 12 stand rejected under 35 U.S.C. § 102(e) over a published patent application – Townsend et al., U.S. patent application Serial No. 09/950,313 (Pub. No. 2002/0102610) (“Townsend et al.”). In rejecting the claims, the Examiner specifically cited paragraph 0057 (lines 1-6) of Townsend et al.

A published U.S. patent application is available as prior art under 35 U.S.C. § 102(e) as of its earliest effective U.S. filing date, “taking into consideration any proper benefit claims to prior U.S. applications under 35 U.S.C. 119(e) or 120 if the prior application(s) properly supports the subject matter used to make the rejection.” Manual of Patent Examining Procedure (8th Ed., Rev. 1) (the “MPEP”), § 706.02(f)(1) (p. 700-27, 1st col.) (emphasis added).

37 CFR 1.8

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Signature: *Tasha L. Cove*

Name: Tasha L. Cove

04/05/2004 A10HNS01 00000000 135117 09944575
 01 FC:2253 475.00 DA